



CITY OF CAMBRIDGE OUTDOOR DINING POLICY

Issued on November 9, 2021

Amended on 2/16/2024

I. Applicability

The City of Cambridge Outdoor Dining Policy (the "Policy") applies to new and existing restaurant businesses which are seeking to extend their licensed premises to an outdoor area (public, private or a combination of both). For purposes of this Policy, the outdoor area may be referred to as the "outdoor area," "outdoor dining area," or the "patio."

II. City's Right to Revoke

Obtaining approval from the City and all relevant permitting departments of the City to operate an outdoor dining area does not create a contractual or property right or interest. Businesses must ensure they are operating in a safe and responsible manner and must understand that any violations of any state, federal, municipal laws, rules and regulations, permit or license conditions or of any agreement with the City may result in the revocation or suspension of the license, the City permits to operate the area, or other approvals issued to operate the outdoor dining area.

It is important to note the layout and design of City streets change from time to time and this may impact the availability of space for patios. Reconstruction of a street or installation of quick-build bicycle lanes can alter the amount of space available for outdoor dining. The City, through consultation with all stakeholders, will do its best to make space available for dining. For example, outdoor dining can be accommodated at any location with separated bicycle lanes where there is also floating parking or loading. Anyone interested in adding new dining should feel free to reach out to the Traffic, Parking, and Transportation Department or Department of Public Works to learn more about any potential upcoming projects prior to embarking on the licensing process. It is also important to note that construction, whether planned or emergency in nature, may require the removal of a patio space during the dining season. The licensee is responsible for any applications that must be made to either permanently remove or alter the in-street outdoor dining area from its licenses and permits.

III. Location of the Outdoor Dining Area Relative to the Restaurant

The outdoor area in which a business may extend its premises for outdoor dining must be contiguous to the brick-and-mortar licensed premises. Contiguity is defined as adjacent and either (a) a clear view of the area from inside the premises, or alternatively (b) the licensee may commit to providing management personnel dedicated to the area. For the latter, the area is still physically contiguous to the licensed premises but not visible, i.e., there are no windows, or the brick and mortar is in the basement and the outdoor area is on the sidewalk. A patio that is on the curbside side of a sidewalk and/or in a parking/travel lane is contiguous. Parking lots, or back areas may also be considered

contiguous. Across the street/sidewalk on the opposite side of the brick and mortar is not considered contiguous.

IV. An Outdoor Dining Area in the Public Way (Public Sidewalk and/or Public Street)

- A. When considering a request for outdoor dining in a public area, the City will review and determine whether the request is in the public's interest. The public way includes the sidewalk and street. The factors the City will evaluate include, but are not limited to, safety considerations, the effect on surrounding businesses and residents, access considerations, provision of public space, parking considerations, access to utilities, and any upcoming construction or street changes. The City will reject the use of any public way for outdoor dining if a location is deemed unsafe for the use. The City may revoke a grant of the use of a public way and require the immediate removal of the dining setup if it is later deemed unsafe, an emergency situation arises, the business is not operating in accordance with all permits and licenses, or the City's and/or public need has changed. Previous approvals for the use of the area do not create a precedent and are not transferrable.
- B. The outdoor dining season on the public way is from April 1 through November 30. An applicant must obtain all necessary permits/licenses and enter into all required agreements with the City. This includes, but is not limited to: License from the Board of License Commissioners; Sidewalk and Street Business Use Permit ("SSBU") from Department of Public Works and Traffic, Parking, and Transportation Department. For outdoor areas that serve alcohol, it also includes the Indemnification Agreement, which is completed as part of the online application for the SSBU. All applications and permits have their own process and require specific documents from the applicant. Licenses and permits are renewed annually.
- C. Restaurants interested in extending into the parking lane will be allowed up to two contiguous parking spaces for patio use.
- D. In circumstances where outdoor dining areas extend in front of adjacent premises, applicants will need to send a notification to the owner and tenant(s)/occupant(s) (if occupied) of the abutting premises informing them of the intent to occupy the space. The required notification will have information on how the owner/tenant/occupant of the abutting premises can provide input to the City as to the application and will state that any input must be sent to the City within 14 days of the date of the notification. The applicant will need to submit an affidavit attesting that notice was provided to abutters together with a list of the persons noticed and a copy of the notification that was provided. Letters of support or opposition from the owner/tenant/occupant of the abutting premises may be considered by the relevant City departments when issuing permits and licenses. This process will be required every time a restaurant re-applies for the Indemnification Agreement, which is valid for a term of one year only. In addition, this abutter notification is different and separate from that required per state law for areas that serve alcohol.
- E. Restaurants looking to extend onto other City owned land (i.e., City owned parking lots) or looking for more than 2 parking spaces, will be considered on a case-by-case basis.
- F. There is a charge for the use of the public way. The fees, which are subject to change, are:
 - 1. For businesses serving alcohol on the public way, there is an annual fee of \$750 due to the License Commission, in addition to related licensing and permits fees.

2. For use of the public sidewalk or street there is annual fee of \$75 due to the Department of Public Works, in addition to related licensing and permit fees (applies to alcohol and non-alcohol).
 3. For businesses extending into a parking/travel lane, there is an annual fee of \$250 per parking space due to Traffic, Parking and Transportation Department, in addition to related licensing and permit fees.
- G. Restaurants that provide outdoor dining with alcohol on public sidewalks or streets must in maintain certain insurance coverage. Specifically:
1. General Liability \$1m/occurrence + \$1m/aggregate, Assault & Battery cannot be excluded and shall be provided for the full policy limit; Liquor Liability \$1m/occurrence + \$1m/aggregate, Assault & Battery cannot be excluded and shall be provided for the full policy limit; Workers' compensation insurance \$500K/accident + \$500K/illness; Umbrella \$1m/occurrence + \$1m/aggregate.
 2. The Certificate Holder should be City of Cambridge, 795 Massachusetts Avenue, Cambridge, MA 02139.
- H. In the additional comments of the insurance certificate, the following language must be included: *The City of Cambridge shall be named as an additional insured for each of the above insurance coverages (umbrella, liquor, and general liability). Assault and battery coverage shall not be excluded from either the general liability insurance or the liquor liability insurance and shall be provided for the full policy limits of each. Each policy shall provide for a 30-day notice of cancellation or non-renewal clause, including for non-payment. Any approved outdoor dining area must be removed at the expense of the licensee upon demand.*
- I. Outdoor dining areas in the public way that are set up on the sidewalk or on the sidewalk and parking lane must be curbside. Access to utilities, utility access points, catch basins and manholes must be maintained throughout the seating area. In the parking lane, the gutter line along the curb and any storm drain grates within and around the seating setup must remain clear of leaves and debris.
- J. For sidewalks that are 10 feet wide or less, a minimum 5 foot wide pedestrian corridor between the storefront and the edge of the curbside patio seating area must be maintained.
- K. For sidewalks that are greater than 10 feet, only half of the width of the sidewalk can be used for an outdoor dining area.
- L. The barrier between the patio and the roadway shall be temporary in nature and shall be limited to no more than 42 inches high. Additional barrier height may be added provided the material is clear/transparent and has been approved by the City. In certain instances, the City may require barriers lower than 42 inches for traffic or public safety purposes.
1. Businesses looking to add additional height in excess of 42" will need additional approvals and sign-off from the Traffic, Parking & Transportation and Public Works Departments.
- M. Businesses looking to add a roof/canopy will need a building permit and zoning approval from the Inspectional Services Department.
- N. Any outdoor dining area in the travel/parking lane may be required to protect all sides of the patio facing the travel lane with jersey barriers or similar material.

V. Extending into a Private Area

- A. Extending into a private way may be possible if the proposed outdoor dining area is contiguous and the use is permitted under the Cambridge Zoning Ordinance. There are certain scenarios where it may be necessary to obtain zoning relief to conduct outdoor dining on private property. For example, if the outdoor dining area is located in a residential zoning district, if the outdoor dining area is located in off-street parking spaces that are required for the restaurant use pursuant to the Zoning Ordinance, and/or if the outdoor dining area does not comply with the Zoning Ordinance's dimensional requirements. Applicants with questions on zoning compliance should reach out to the Inspectional Services Department (617-349-6100 or pmclaughlin@cambridgema.gov).
- B. If serving alcohol on a private area, there is a \$250 annual fee in addition to any other licensing and permit fees.

VII. Application Minimum Requirements – public/private way

- A. To ensure compliance with federal, state and municipal laws, and safety standards, an applicant must provide a stamped architectural/engineer floor plan of the outdoor dining area which includes: the location of the outdoor area in relation to the brick and mortar; all dimensions of the outdoor dining area (length, width and total square footage); clearly shows layout of the tables and chairs; location of the hostess stand, bar or any other structure not related to seating (if applicable); the total capacity of the area (seating and standing); must show location of all barriers and identify the type of barrier proposed to be used (material, height, and length); shows the pedestrian way (sidewalk/street) and includes the width of the pedestrian way; identifies any existing sidewalk furniture, bike racks, utility access points, trees, manholes and catch basins in and around the proposed seating area; and identifies compliance with all ADA requirements.
 - 1. Applicants are encouraged to include pictures or drawings of the barriers and furniture being used.
 - 2. Businesses that do not serve alcohol in the public way and are proposing less than 10 seats, can submit a floor plan that is not stamped by an architect/engineer, and that shows all of the details described above
- B. All outdoor dining areas in which alcohol is served shall be enclosed by a fence, rope, or other temporary barrier to prevent access from a public walkway.
- C. All applications for extension of the licensed premises go through an initial zoning review after being submitted. If there is a zoning issue, the applicant may have to submit a variance application to the Board of Zoning Appeals. Whether zoning relief is required will depend on case-specific factors including, but not limited to, where the business is located, whether the location of the outdoor area is on public or private land, and dimensional requirements that are required in the zoning code.
- D. Restaurants must ensure that outdoor seating areas remain accessible to the public in accordance with the Americans with Disabilities Act (ADA) requirements. This may be accomplished with temporary ramps, access at ground level at the rear of the outdoor seating area, or with an elevated platform flush with the sidewalk. Outdoor dining must be accessible

and meet PROWAG and Massachusetts Architectural Access Board's regulations (available at <https://www.mass.gov/doc/521-cmr-1700-restaurants/download>).

- E. Patio Propane Heaters: The propane heater program is only available to businesses that have an annual Common Victualler, Alcohol and/or Innholder license which includes a public or private licensed outdoor area in which they serve food and/or beverages. Applicants must apply for a "Flammable and Combustible Permit" under the Fire Department's permits on the city's online permitting portal.

Dated: _____

2/16/24

Yi-An Huang
City Manager